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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 28th August, 2024

No. 13/2/142-HII(2)-2024/13439.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **10/2019** dated **06.05.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

DALJIT SINGH S/O LATE SHRI SANTOKH SINGH, HOUSE NO. 3465, SECTOR 23-D,
CHANDIGARH. (Workman)

AND

1. SECRETARY TECHNICAL EDUCATION, DELUXE BUILDING, 3RD FLOOR, U.T. SECRETARIAT, SECTOR 9, CHANDIGARH ADMINISTRATION, CHANDIGARH.
2. PUNJAB ENGINEERING COLLEGE THROUGH ITS DIRECTOR, SECTOR 12, CHANDIGARH.
3. THE CHIEF EXECUTIVE OFFICER, PEC CENTRE FOR CONSULTANCY IN ENGINEERING (CCE), PUNJAB ENGINEERING COLLEGE, SECTOR 17, CHANDIGARH. (Management)

AWARD

1. Daljit Singh, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

Signature Not Verified

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Jatinder Kumar
06-09-2024
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2. Briefly stated the averments of claim statement are that the workman was offered the post of Data Entry Operator on contract basis through advertisement in newspaper by the Centre for Computational Engineering, Punjab Engineering College, Sector 12, Chandigarh vide its letter No. PEC/CCE/06-7412 dated 13.09.2006 and in compliance of the above appointment letter workman joined as such. The workman was

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performing his duties to the full satisfaction of the management and in view of his work and conduct he was deputed vide Memo No.PEC/CCE/07-9530 dated 23.11.2007 to work in Academic Section, Punjab Engineering College w.e.f. 26.11.2007 and in compliance the workman joined in Academic Section as directed and in view of his performance appraisal his incentive also raised ₹ 1,500/- per month w.e.f. 01.01.2008. The above department i.e. Centre for Computational Engineering, Punjab Engineering College, Sector 12, Chandigarh was working under the Control &supervision of respondent (*here-in-after 'management'*) No. 1 & 2. The Chandigarh Administration vide its letter No.11/23/110-IH (10)-2008-18202 dated 18.09.2008 has transferred the Centre for Computational Engineering (CCE) as extended am from its control to Punjab Engineering College, Sector 12, Chandigarh and the employees including the workman came under the supervision &employment of Punjab Engineering College, Sector 12, Chandigarh. The workman was given extension number of times and in continuation of his appointment as mentioned earlier the workman was also given a certificate dated 24.10.2008 and dated 14.12.2012 regarding his working with the department w.e.f. 14.09.2006 to 13.03.2012 and from 14.03.2012 till date i.e. 14.12.2012. The workman was earlier issued a fresh appointment letter vide No.PEC/CCE/Apnt/2012-4782 dated 14.03.2012 for one year which was further extended for further one year. The workman was issued another certificate vide letter No. PEC/CCE/2013-9351 dated 06.12.2013. From the date of the appointment of the workman as Data Entry Operator w.e.f. 14.09.2006 till 13.03.2014 the workman was given extensions number of times. Vide letter No. PEC/CCE/14-9995 dated 13.03.2014 the services of the workman were terminated stating therein that the contract of employment for one year from 14.03.2013 to 13.03.2014 has come to an end by afflux of time and the workman was relieved from service as Data Entry Operator. The workman worked from 14.09.2006 to 13.03.2014 continuously without any break and he was also issued various appreciation letters during this period. The work which was being performed by the workman still exist with the management. The Director, Registrar & Dean Academic Affairs of PEC University of Technology, Chandigarh have been assigning the duties to the workman from time to time. There was lot of work in PEC and sometimes the workman had to work for over time and the workman used to receive separate remuneration for that overtime. The workman was Dealing Hand of Bachelor of Engineering (BE) 1 year students, new admission of BE students, registration of students, data entry of results, issue of Statement of Grades (DMC), dealing in court cases of PEC student's case. Vide office order of the Director, PEC University of Technology the workman was put on Bachelor of Engineering (BE) admission duty during counseling for the academic year 2010-11 to 2013-14. The workman used to receive separate remuneration by the Joint Admission Committee. The sudden &abrupt termination of the services of the workman as Data Entry Operator on 13.03.2014 is in complete violation of the provisions of the ID Act which is unconstitutional, illegal, arbitrary and against all canon of principle of natural justice. The management has violated the mandatory provisions of Section 25F, 25G and 25H of the ID Act 1947 as the management neither offered or paid any retrenchment compensation for the services rendered by the workman from 14.09.2006 13.03.2014. No notice of one month or pay in lieu of notice was given to the workman at the time of retrenchment/termination of the services of the workman on 13.03.2014. The services of the workman were terminated in hire &fire manner. The number of juniors to the workman i.e. about 25 persons were retained in services. The management has also guilty of violating the principle of 'first come last go'. The management also appointed number of persons after the termination of the workman and regularized the contract staff and also absorption of employees of the Nodal Centre in PEC University of Technology, Chandigarh, but the workman was also not provided any opportunity for re-employment. The management also violated Section 25N of the ID Act as no permission of the Government has been taken by the management before terminating the services of the workman. The workman has put in more than seven year and six months services with the management. No charge sheet has been served to the workman and no enquiry has been conducted before terminating the service of the workman. The work for which the workman was appointed still exist with the management/institute and is of such a nature without which the functions of the institute are not possible. The workman should have been regularized and the

workman should have been given status of permanent employee. But to the utter surprise and dismay of the workman, the management/institute instead of regularizing the services of the workman, preferred to terminate his services and that too without following the statutory provisions which regulate the termination of the workman despite the fact that the work which was entrusted to the workman was still existing and has never came to an end. The workman in order to get justice approached the Human Right Commission, New Delhi vide his initial complaint dated 20.07.2014. The complaint of the workman was finally disposed off and conveyed to the workman on 17.07.2018. The action of the management in terminating the services of the workman on 13.03.2014 is illegal, unlawful, unconstitutional, and arbitrary and against the mandatory provisions of the ID Act. During the conciliation proceeding before the Assistant Labour Commission, Union Territory, Chandigarh only management No. 3 i.e. the Chief Executive Officer, PEC Centre for Consultancy in Engineering (CCE), Punjab Engineering College, Sector 12, Chandigarh choose to appear and file reply whereas other managements prefer not to attend the conciliation proceeding and also did not file their reply to the demand notice. Prayer is made that the illegal termination of the workman may be set aside and the workman may be reinstated in service as Data Entry Operator with full back wages and with all attendant benefits including seniority, with cost and any other benefit which this Court deemed fit.

3. On notice, management No.1 appeared through its Law Officer and contested the claim of the workman by filing written statement on 13.01.2021, wherein it is stated that the workman has impleaded the Secretary Technical Education, Chandigarh Administration as respondent (*here-in-after 'management*) No.1 the captioned petition (*here-in-after 'claim statement'*). The claim statement is not maintainable against management No.1 as no relief is sought in the claim statement and the same is bad for mis-joinder of parties. The workman has sought relief only from the management No. 2 & 3 and not against management No.1. Prayer is made that the claim statement may be dismissed qua management No.1.

4. On notice, management No.2 appeared through its Authorised Representative and contested the claim of the workman by filing written reply on 13.02.2020, wherein preliminary objections are raised on the ground that the present statement of claim/ demand notice is not maintainable as same is time barred and is filed after the expiry of period of limitation. It is in year 2014 that the management No.3 did not renew the contract and not issued fresh appointment letter to the workman. Instead of filing the demand notice within a period of limitation i.e 3 years from 13.03.2014, the workman preferred to file the demand notice on 10.08.2018 before the Assistant Labour Commissioner-cum-Conciliation Officer, Chandigarh i.e after lapse of more than 4 years. The workman has not approached this Tribunal with clean hands and concealed the material facts in order to get undue advantage from this Tribunal. The workman concealed the factum with respect to filing of writ petition bearing No.15008 of 2014 before the Hon'ble Punjab and Haryana High Court at Chandigarh on the ground of challenging the order dated 13.03.2014 passed by management No.3, advertisement for filling up of post of Data Entry Operator and prayer for the re-instatement alongwith the release of amount due on account of payment less than prescribed consolidated monthly salary. However, the said writ petition was dismissed on 31.07.2014 on the ground that workman does not fulfill the required qualification. The workman challenged the said order in LPA No.1440 of 2014. The said LPA was withdrawn by the workman on 01.09.2014 with the liberty to avail alternative remedy in accordance with law. Instead of filing the demand notice, the workman preferred to file false and frivolous complaint against the managements before the National Commission for Schedule Caste, Sector 9, Chandigarh challenging the order dated 13.03.2014, which was later dismissed by the Hon'ble Commission. The workman has approached different Court and Forum challenging order dated 13.03.2014 and no relief has been granted to him. Same relief has been claimed by the workman before the Hon'ble High Court, National Commission of Schedule Caste and National Human Right Commission, Delhi and since all has decided the claim of workman on merit therefore, present claim statement of claim is barred by principle of res- judicata. The workman himself in his statement of claim admitted the fact that he

was on contract basis which was renewed every year subjected to the condition of availability of work. Every year the management No.3 used to issue fresh appointment letter to the workman for a period of one year only subjected to availability of work. Since there was no work available for the workman with management No. 3 therefore, his contract is not renewed and no fresh appointment letter was issued to him after 13.03.2014. Since workman is purely on contract and contract was not terminated before its expiry, therefore, no dispute arises. The management No. 2 &3 are independent bodies having independent identities. Management No.3 is a registered societies registered with The Registrar of Firms & Societies, UT. Chandigarh and management No. 2 is a Deemed University. Management No. 2 used to hire the manpower from the management No.3 and used to make the payment dues of manpower to management No.3 against the bill raised by management No.3. The workman being the contractual manpower supplied by management No.3 to the management No.2 is not entitled for any reinstatement qua the management No.2 as he has never been appointed by the management No.2 to its office rather it is the management No.3 who has issued the appointment letter and used to make the payment of salaries to the workman. The workman remained failed to explain in the present statement of claim how a cause of action arose in his favour and against the answering management. Infact no cause of action arose in favour of workman and against the answering management as at no point of time workman is appointed by the answering management. Hence, present statement of claim is liable to be dismissed.

5. On merits, it is admitted that the workman had worked in the academic section of answering management from 26.11.2007. The time for which the workman worked with the answering management, answering management made the payment of all manpower supplied by management No.3, who itself distribute the salary and other benefits to said manpower including workman. At no point of time any contract was ever signed between the workman and answering management nor ever answering management paid any salary or issued any appointment letter to the workman. It is matter of record that the Centre for Computational Engineering, Punjab Engineering College, Sector 12, Chandigarh was working under the Control & supervision of management No. 1 & 2 and the Chandigarh Administration vide its letter No.11/23/110-IH (10)-2008-18202 dated 18.09.2008 has transferred the Centre for Computational Engineering (CCE) as extended am from its control to Punjab Engineering College, Sector 12, Chandigarh. However, it is denied that the employees of management No.3 including workman become employees of the answering management. The workman was hired by the answering management through management No.3 and it is management No.3 who is supervising and making payment of salary and other dues to its employees. At no point of time answering management has issued any certificate to the workman. It is admitted that workman while deputed with the answering management sometime had to work overtime and receive separate remuneration for the same and had also worked during the new admission and registration of BE students. The workman was assigned duty alongwith the other officials of the answering management at the time of new admissions and his remunerations are paid as per the bills raised by the management No.3. Mere assigning of such duty does not change the nature of appointment of workman and does not make the workman regular employee of answering management against regular post. When answering management has not appointed the workman then question of giving him notice or retrenchment compensation and violation of any provision of the ID Act does not arises on part of answering management. Further it is pleaded that contents of para 1, 4 to 7, 11 to 13 & 16 needs no reply being not related to answering management. Remaining averments of the claim statement are denied. Prayer is made that the claim statement may be dismissed qua the management No.2.

6. On notice, management No.3 appeared through its Authorised Representative and contested the claim of the workman by filing written statement on 16.12.2019, wherein preliminary objections are raised on the ground that the workman was on contract w.e.f. 14.03.2013 and was relieved after the end of the contractual period as per terms & conditions of the appointment and employment contract signed by the workman. The

contract stood expired with afflux of time on 13.03.2014. Accordingly the workman has no locus standi to raise any industrial dispute on account of expiry of the service contract. During the contractual term, the workman was not working on any projects of PEC-CCE but was working on projects related to PEC. Case of the workman does not come under retrenchment as defined under Section 2(oo) of the ID Act, as per which, where there is no renewal of contract of employment on expiry of the contract as stipulated in contract, it will not amount to retrenchment. The workman was on contract with PEC-CCE for a period of one year, therefore, there is no violation of any Section of the ID Act. Cause of action arose in the year 2014 and the demand notice has been filed after period of limitation.

7. In para-wise reply, it is stated that as per terms of appointment letter, the workman was a contractual employee and his services were co-terminus with the project. As per Clause (4) of the appointment letter, it was made clear to the workman at the time of appointment, the workman will have no claim for regular appointment. The Centre of Computational Engineering (CCE) deputed the workman with Punjab Engineering College as the CCE did not have work for the workman. Thereafter, i.e. 2007, to till the year 2014, the workman was working with Punjab Engineering College. As per the averments of the workman, he has knowledge about the constitution of management No.3 and in spite of the same, is seeking relief from management No.3. The workman was never given extension of the contract. After the end of the terms of the contract, the workman signed new contract for a period of one year. There is no record with the management No.3 that Coordinator, CCE, had the authority to issue the certificate. However, the certificate clearly mentions that the workman has been working on contract basis with erstwhile CCE and it does not say, the workman was a regular employee. As per terms of the contract for the year 2012, the period of contract would be for one year and based on the requirement the contract may be renewed. As per Clause 16, the contractual appointment will not give any right for regular appointment to the workman and as per Clause 10, there is an arbitration clause for resolution of any dispute with regard to the contract. The workman instead of initiating arbitration proceedings has filed demand notice. The contract of the workman was not extended rather the same was renewed. The legal difference between both is that : the extension would mean, continuation of old contract whereas renewal would mean, upon expiry of previous term, drawing of new contract. The workman has intentionally and deliberately used the word extension to mislead the Court to get favourable order from the Court. The services of the workman were not terminated rather the contract was not renewed. As per official record of CCE, the workman was working with PEC University since 2007. The answering management does not have any work / project for the workman. As per the contract, there was no necessity or obligation to serve notice or pay salary in lieu of notice period. The case of the workman is non-renewal of the contract, for which there is no requirement for conducting any inquiry or serving charge sheet upon the workman and there is no permanent post for Data Entry Operator with the answering management. Non-renewal of contract does not amount to violation of Human Rights of the employees. The Commission has not granted any relief to the workman as sought. The workman cannot be reinstated with back wages, as prayed for, as the terms of the contract employment has expired.

8. The workman filed separate replication to written statement / reply filed by management No.1, 2 & 3, wherein the contents of written statement / reply are denied as wrong except the admitted facts of the claim and the averments of the statement of claim are reiterated.

9. From the pleadings of the parties, following issues were framed vide order dated 17.02.2021 :-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether the present industrial dispute is bad for mis-joinder of the parties ? OPM-I

3. Whether the present industrial dispute is not maintainable being time barred ? OPM-II
4. Relief.

10. In evidence, the workman Daljit Singh examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'AW1/1' to Exhibit 'AW1/17.

Exhibit 'AW1/1' is office order bearing No.808 dated 22.07.2010 issued by Director, PEC University of Technology, Chandigarh whereby Officers / officials are put on B.E. Admission duty during 2nd& 3rd counseling on 28th to 31st July, 2010 and 17th to 1th August, 2010.

Exhibit 'AW1/2' is advertisement of Centre for Computational Engineering requiring services of Data Entry Operators, Filed Surveyors, Design Engineer BE (Engg.), Software Engineer, GIS Engineer and Draftsman.

Exhibit 'AW1/3' is appointment letter bearing Memo No.PEC/CCE/06-7412 dated 13.09.2006 issued by the Coordinator, Centre for Computational Engineering to workman Daljeet Singh for appointment as Data Entry Operator.

Exhibit 'AW1/4' is letter bearing Memo No.PEC/CCE/07-9530 dated 23.11.2007 from the Coordinator, Centre for Computational Engineering to The Registrar, Punjab Engineering College, Chandigarh with a copy to Daljit Singh - Data Entry Operator, CCE on the subject substitute of Shri Ravinder Kumar Rawat - Data Entry Operator.

Exhibit 'AW1/5' is noting dated 24.10.(year not mentioned) recommending substitution of Shri Ravinder Kumar Rawat - Data Entry Operator.

Exhibit 'AW1/6' is letter bearing Memo No.PEC/CCE/07/9609 dated 11.12.2007 issued by Coordinator, Centre for Computational Engineering to Daljeet Singh on the subject incentive / raise in the consolidated salary.

Exhibit 'AW1/7' is letter bearing Memo No.11/23/110-IH(10)-2008/18202 dated 18.09.2008 from the Home Secretary, Chandigarh Administration to the Director, Punjab Engineering College, Chandigarh on the subject transfer of CCE to Punjab Engineering College, Chandigarh.

Exhibit 'AW1/8' is experience certificate bearing No.PEC/CCE/Cert./08/10888 dated 24.10.2008 issued by Prof. & Coordinator, Centre for Computational Engineering in favour of Daljit Singh S/o Sh. Santokh Singh, R/o House No.3135, Sector 24-D, Chandigarh.

Exhibit 'AW1/9' is experience certificate bearing No.PEC/CCE/Cert./12/6124 dated 14.12.2012 issued by Executive H.R., PEC-Center for Consultancy in Engg. in favour of Daljit Singh S/o Sh. Santokh Singh, R/o House No.3465/2, Sector 23-D, Chandigarh.

Exhibit 'AW1/10' is appointment letter bearing Memo No.PEC/CCE/Apnt/2012-4782 dated 14.03.2012 issued by PEC/Centre for Consultancy in Engineering to Daljit Singh.

Exhibit 'AW1/11' is salary certificate bearing No.PEC/CCE/2013-9351 dated 06.12.2013 issued by Executive H.R., PEC-Center for Consultancy in Engg. in favour of Daljit Singh S/o Sh. Santokh Singh, R/o House No.3465/2, Sector 23-D, Chandigarh.

Exhibit 'AW1/12' is relieving letter bearing Memo No.PEC/CCE/14/9995 dated 13.03.2014 issued by Executive H.R., PEC-Centre for Consultancy in Engg. to Daljit Singh.

Exhibit 'AW1/12' is letter bearing Memo No.PEC/SE-5/16582 dated 30.08.2013 from Registrar, PEC University of Technology, Chandigarh to the Chief Executive Officer, Centre for Computational Engineering on the subject bill of overtime in lieu of duty performed on working days and holiday.

Exhibit 'AW1/13' is office order bearing No.812 dated 03.07.2012 whereby officers / officials are put on BE Admission.

Exhibit 'AW1/14' is office order bearing No.907 dated 09.07.2013 whereby officers / officials are deputed to conduct B.E. Admission counseling under DASA scheme for academic session 2013-14.

Exhibit 'AW1/15' is invoice bearing No.SPIC/2013/488 dated 28.03.2014 for supply of manpower.

Exhibit 'AW1/16' is noting dated 31.03.2014 on the subject payment of manpower bill against SPIC Invoice No.SPIC/2013/488 dated 28.03.2014 for the period from February 25, 2014 to March 24, 2014.

Exhibit 'AW1/17' is letter bearing Memo No.SPIC/2014/25788 dated 15.09.2014 issued by Superintendent (Estt.), PEC University of Technology, Chandigarh to The Registrar, PEC University of Technology, Chandigarh on the subject outsourcing of Data Entry Operators for PEC University of Technology, Chandigarh.

11. It is pertinent to mention here that Exhibit 'AW1/12' has been marked twice i.e. relieving letter bearing Memo No.PEC/CCE/14/9995 dated 13.03.2014 issued by Executive H.R., PEC-Centre for Consultancy in Engg. to Daljit Singh and letter bearing Memo No.PEC/SE-5/16582 dated 30.08.2013 from Registrar, PEC University of Technology, Chandigarh to the Chief Executive Officer, Centre for Computational Engineering on the subject bill of overtime in lieu of duty performed on working days and holiday. In order to avoid any ambiguity letter bearing Memo No.PEC/SE-5/16582 dated 30.08.2013 from Registrar, PEC University of Technology, Chandigarh to the Chief Executive Officer, Centre for Computational Engineering on the subject bill of overtime in lieu of duty performed on working days and holiday is renumbered and hereafter referred as Exhibit 'AW1/12A'.

12. On 14.09.2022 the workman closed his evidence.

13. On the other hand, management No.1 examined MW1 Mohan Singh - Superintendent, Technical Education Chandigarh Administration, who tendered his affidavit Exhibit 'MW1/A' along with copies of documents Exhibit 'M1' and Exhibit 'M2'.

Exhibit 'M1' is gazette notification dated 8th/9th July 2004.

Exhibit 'M2' is copy of letter bearing Memo No. 11/23/110-IH(10)-2008/18202 dated 18.09.2008.

14. Management No.3 examined MW2 Dr. Parminderjit Singh - Chief Executive Officer, PEC Centre for Consultancy in Engineering (CCE), Chandigarh, who tendered his affidavit Exhibit 'MW2/A' along with copies of documents Exhibit 'MW2/1' & Exhibit 'MW2/2' (referred as Exhibit 'R1' & Exhibit 'R2' in his affidavit).

Exhibit 'MW2/1' is appointment letter dated 14.03.2013.

Exhibit 'MW2/2' is employment agreement dated 14.03.2013 between PEC Centre for Consultancy in Engineering, PEC University of Technology (Society) and Daljit Singh (Employee).

15. Management No.2 examined MW3 Gurdeep Singh - Senior Assistant, Punjab Engineering College, Chandigarh, who tendered his affidavit Exhibit 'MW3/A' along with copies of documents Exhibit 'M3/1' to Exhibit 'M3/11'.

Exhibit 'M3/1' is authority letter dated 02.03.2023 issued in favour of Gurdeep Singh by Registrar, PEC, Sector 12, Chandigarh.

Exhibit 'M3/2' is Civil Writ Petition No.15008 of 2014.

Exhibit 'M3/3' is order dated 31.07.2014 passed by the Hon'ble High Court in CWP No. 15008/2014.

Exhibit 'M3/4' is order dated 01.09.2014 passed by the Hon'ble High Court in LPA No. 1440 of 2014.

Exhibit 'M3/5' is complaint dated 30.06.2014 filed by workman to National Commission for Scheduled Castes, Sector 9, Chandigarh along with copy of complaint dated 01.10.2014 filed by workman before Home Secretary, Chandigarh Administration, Chandigarh.

Exhibit 'M3/6' is reply dated 10.03.2015 filed by management No.2 and replication submitted on 26.02.2015 by workman before National Commission for Scheduled Castes, Sector 9, Chandigarh to complaint dated 30.06.2014.

Exhibit 'M3/7' is certificate of Registration of Society bearing No.4117 of 2010 issued by Registrar of Firms & Societies, U.T, Chandigarh.

Exhibit 'M3/8' is certificate of change of name of Society bearing No.3586 of 2003 issued by Registrar of Firms & Societies, U.T, Chandigarh,

Exhibit 'M3/9' is salary bill for the month of November 2012 issued by CEO, PEC-CCE, PEC University of Technology, Chandigarh.

Exhibit 'M3/10' is letter dated 03.12.2012 in respect of payment of person deputed with management No.2, issued by CEO, PEC-CCE, PEC University of Technology, Chandigarh.

Exhibit 'M3/11' is bill of over-time in lieu of duty performed on working days and holiday issued by Registrar, PEC, to CEO, PEC-CCE, PEC University of Technology, Chandigarh.

16. On 14.03.2024 Learned Law Officer for management No.1 and Learned Representative for management No.3 closed evidence.

17. On 09.02.2024 Learned Representative for management No. 2 tendered into evidence copies of documents Exhibit 'MX' to Exhibit 'MX/11' and close oral evidence and on 30.04.2024 closed documentary evidence.

Exhibit 'MX' is letter bearing memo No. 14285 dated 19.08.2003 issued from Principal, PEC, Chandigarh relating to recruitment to the post of Clerk (contract basis) in PEC, Chandigarh

Exhibit 'MX/1' is letter bearing memo No. 29644 dated 16.10.2014 issued from Registrar, PEC to Ms. Puja on the subject of regularisation of services- appointment thereof to the post of Clerk.

Exhibit 'MX/2' is educational qualification certificate of B.A. relating to Puja issued by Panjab University.

Exhibit 'MX/3' is relevant copy of salary register for the period 10.08.2003 to 21.02.2004 relating to Ms. Puja, Clerk (contract basis).

Exhibit 'MX/4' is letter bearing memo No. 20948 dated 11.11.2002 issued from Principal, PEC, Chandigarh relating to recruitment to the post of Clerk (contract basis) in PEC, Chandigarh.

Exhibit 'MX/5' is letter bearing memo No. 29643 dated 16.10.2014 issued from Registrar, PEC to Ms. Reeta on the subject of regularisation of services-appointment thereof to the post of Clerk.

Exhibit 'MX/6' is educational qualification certificate of B.A. relating to Reeta issued by Panjab University.

Exhibit 'MX/7' is relevant copy of salary register for the period 12.11.2002 to 02/2002 relating to Ms. Reeta, Clerk (contract basis).

Exhibit 'MX/8' is letter bearing memo No. 15542 dated 11.09.2003 issued from Principal, PEC, Chandigarh relating to recruitment to the post of Clerk (contract basis) in PEC, Chandigarh.

Exhibit 'MX/9' is letter bearing memo No. 29645 dated 16.10.2014 issued from Registrar, PEC to Ms. Bhanu Kanwar on the subject of regularisation of services-appointment thereof to the post of Clerk.

Exhibit 'MX/10' is educational qualification certificate of B.A. relating to Bhanu Kanwar issued by Panjab University.

Exhibit 'MX/11' is relevant copy of salary register for the period 12.09.2003 to 02/04 relating to Ms. Bhanu Kanwar, Record-keeper (contract basis).

18. I have heard the arguments of Learned Representative for the parties and Learned Law Officer for management No.1 and perused the judicial file. My issue-wise finding are as below :-

Issue No. 1 :

19. Onus to prove this issue is on the workman.

20. Under this issue, the workman examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for sake of brevity. AW1 supported his oral version with the documents Exhibit 'AW1/1' to Exhibit 'AW/17'.

21. On the other hand, management No.1 examined MW1 Mohan Singh - Superintendent, who tendered his affidavit Exhibit 'MW1/A' wherein he deposed that the PEC Society is an autonomous body after formation of PEC University of Technology Society (Deemed University) vide notification No.11/23/152-IH(2)-2004/12566-12567 dated 8/9th July, 2004 after which all the service matters in respect of teaching and non teaching staff are being disposed off at the level of Punjab Engineering College Society with the approval of the Board of Governors of Punjab Engineering College. After formation of PEC (University of Technology Society) into Deemed University being an autonomous body, the entire existing liabilities of Centre for Computational Engineering/ Punjab Engineering College (CCE/PEC) was also transferred from the control of Chandigarh Administration with the present working model to the control of Punjab Engineering College with immediate effect. The Centre for Computational Engineering will now function as an extended arm of Punjab Engineering College, Chandigarh vide this Administration's Memo No.11/23/110-IH(10)-2008/18202

Dated 18.09.2008. He further deposed that even before the National Human Rights Commission, management/respondent No. 1 after taking the comments from The Chief Executive Officer, PEC Centre for Consultancy in Engineering, has categorically mentioned that the services of Sh. Daljit Singh have not been terminated on the ground that he belongs to Scheduled Caste Community. There is no reason for being discriminatory against him as he had never mentioned at any stage of his tenure that he belongs to Scheduled Caste Community. Thus, the office has clearly refuted the allegations of termination of his services on the ground of being SC. It is management/respondent No.3 who has terminated the services of workman and not the respondent No.1. MW1 supported his oral version with documents Exhibit 'M1' and Exhibit 'M2'.

22. Management No.2 examined MW3 Gurdeep Singh - Senior Assistant, who tendered his affidavit Exhibit 'MW3/A' wherein he deposed that management No.2 is a Deemed to be University as declared by the University Grant Commission. He is presently working as Senior Assistant with management No.2, has been authorized by management No.2 vide authority letter dated 02.03.2023 to initiate or to defend the legal proceedings before the Court of Law including to file affidavits and to depose as witness etc. as he is well conversant with the facts of the present case. Further the material contents of the written statement are deposed, which are not reproduced in order to avoid repetition. MW3 supported his oral version with documents Exhibit 'M3/1' to Exhibit 'M3/11'. Further Learned Representative for management No.2 referred documents Exhibit 'MX' to Exhibit 'MX/11'.

23. Management No.3 examined MW2 Dr. Parminderjit Singh - Chief Executive Officer, who tendered his affidavit Exhibit 'MW2/A' wherein he deposed that the services of the workman were never been terminated. In fact workman was on contract w.e.f. 14.3.2013 and was relieved after the end of contractual period as per terms & conditions of the appointment letter and employment contract signed by the workman himself. As per the employment agreement, the workman was engaged by the PEC Centre of Consultancy in Engineering (CCE) on temporary basis against temporary work for one year w.e.f. 14.03.2013 ending on 13.03.2014 and therefore, the contract was expired with the efflux of time. He further deposed that the demand notice was highly belated as the dispute arose in March, 2014 but the demand notice was issued very late i.e. after three years. He further deposed that as per the contract agreement i.e. appointment letter, the workman is a contractual employee and his services were co-terminus with the project and as per Clause 4 of the appointment letter, it is clearly mentioned that workman will not claim for regular appointment. The workman was always a project employee on contract basis and he was never been given any regular appointment and the contract of the workman was extended on the basis of year to year and every year, new contract was signed. The Coordinator of CCE has no authority to issue any Certificate to the workman and further as per the Clause 16 of the Contract Agreement, the workman himself agreed with regard to his contractual appointment and has no right for any regular appointment and further as per Clause 10, there is an arbitration clause for resolution of the dispute and therefore, the present claim before this Hon'ble Court is not maintainable. He further deposed that the PEC-CCE has no work for the workman as PEC-CCE has already been winded up and even stop working from March 2020 and there is no employee left with PEC-CCE as of now. MW2 supported his oral version with documents Exhibit 'MW2/1' to Exhibit 'MW2/2'.

24. In this case, the workman has alleged that he was offered the post of Data Entry Operator on contract basis through advertisement in newspaper Exhibit 'AW1/2' issued by Centre for Computer Engineering, Punjab Engineering College, Sector 12, Chandigarh. As per advertisement Exhibit 'AW1/2' the post of Data Entry Operator required that candidate should be Graduate / 10 + 2 with knowledge of MS Office and good typing speed. The workman was appointed as Data Entry Operator in the Centre for Computer Engineering, Punjab Engineering College, Sector 12, Chandigarh on contract basis till the project is completed vide appointment letter bearing Memo No.PEC/CCE/06-7412 dated 13.09.2006 / Exhibit 'AW1/3' issued from The Coordinator, Centre for Computer Engineering, Punjab Engineering College, Sector 12, Chandigarh. Vide letter Memo No.PEC/CCE/07-9530 dated 23.11.2007 issued from The Coordinator, Centre for Computer Engineering,

Punjab Engineering College, Sector 12, Chandigarh to the Registrar, Punjab Engineering College (Deemed University), Sector 12, Chandigarh / Exhibit 'AW1/4', the workman Daljeet Singh - Data Entry Operator was deputed to work in Academic Section, Punjab Engineering College, Sector 12, Chandigarh w.e.f. 26.11.2007 (F.N.). Management No.2 (Punjab Engineering College) in its written statement admitted the fact that the workman worked in the Academic Section of answering management from 26.11.2007 but at the same time taken the stand that the workman was deputed through service provider / management No.3. It is further alleged by management No.2 in its written statement that management No.2 made payment of all the manpower supplied by management No.3 including the workman to the management No.3 and it was management No.3 who itself distributed the salary and other benefits to the outsource employees including workman supplied by management No.3.

25. It is own case of the workman that he was issued appointment letter No.PEC/CCE/ Apnt./2012-4782 dated 14.03.2012 / Exhibit 'AW1/10'. Letter Exhibit 'AW1/10' has been issued to the workman from Executive HR, PEC - Centre for Consultancy in Engineering PEC - University of Technology Chandigarh, appointing the workman as Data Entry Operator purely on contract basis initially for period of one year from the date of joining. It is own case of the workman that the contract was extended from time to time. The last contract was of the period w.e.f. 14.03.2013 till 13.03.2014. After the expiry of contract period, the workman was not given further extension, as a result of which the workman was relieved from service w.e.f. 14.03.2014.

26. The grievance of workman is that he worked continuously from 14.09.2006 to 13.03.2014 without any break in service. Thus, before dispensing with his service on the pretext of expiry of contract of one year from 14.03.2013 to 13.03.2014 by efflux of time, the management has not complied with the conditions laid down under Section 25F of the ID Act as he was neither issued prior notice nor offered notice pay in lieu of notice period nor offered or paid any retrenchment compensation. Number of juniors to the workman i.e. about 25 persons were retained in service. Thus, the management has violated Section 25G of the ID Act. The workman was not provided opportunity of re-employment, thus, the management has violated Section 25H of the ID Act.

27. From the contents of the written statement filed by management No.2 it has come on record that before raising the demand notice dated 10.08.2018, on the basis of which the present industrial dispute reference has been presented, the workman has filed Civil Writ Petition No.15008 of 2014 before the Hon'ble Court of Punjab & Haryana at Chandigarh, challenging the order dated 13.03.2014 passed by management No.3, advertisement for filling up the post of Data Entry Operator and prayed for reinstatement along with release of amount due on account of payment less than prescribed consolidated monthly salary. The said Civil Writ Petition was dismissed on 31.07.2014 on the ground that the workman does not fulfill the required qualification. The workman challenged the order dated 31.07.2014 by filing LPA No.1440 of 2014 and later on withdraw the same on 01.09.2014 with liberty to avail alternative available in accordance with law.

28. In the demand notice dated 10.08.2018 and present claim statement that the workman concealed the fact of filing of Civil Writ Petition No.15008 decided on 13.03.2014 by the Hon'ble High Court of Punjab & Haryana and also concealed filing of LPA No.1440 of 2014 decided on 01.09.2014 by the Hon'ble High Court of Punjab & Haryana. AW1 / workman when put to cross-examination by management No.2 admitted the filing of Civil Writ Petition and LPA. The relevant portion of cross-examination of AW1 is reproduced as below :-

"It is correct that I challenged my relieving order before the Hon'ble High Court by way of Civil Writ Petition No.15008 of 2014 which was decided by order dated 31.07.2014. It is

correct that I filed LPA No.1400 of 2014 in the matter of CWP No.15008 of 2014 before the Hon'ble High Court which was decided vide order dated 01.09.2014. It is correct that on 10.08.2018 I issued demand notice to the management No.1 to 3. It is correct that I did not mention CWP and LPA in my demand notice."

29. In view of the aforesaid version of AW1 it is made out that matter in issue before this Court has already been adjudicated upon by the Hon'ble High Court in CWP No.15008 of 2014 vide order dated 31.07.2014. The order dated 31.07.2014 of Hon'ble High Court in CWP No.15008 of 2014 is reproduced as below :-

"Petitioner has filed this petition challenging the order dated 13.3.2014 (Annexure P-8).

Case of the petitioner, in brief, is that he was appointed as a Data Entry Operator on contract basis by the respondents vide order dated 13.9.2006. Petitioner was granted extension from time to time. However vide Annexure P-8, petitioner was relieved from service. Now respondents had again issued advertisement for appointment of Data Entry Operators. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that petitioner had worked with the respondents on contract basis with effect from September, 2006. It was the settled law that an employee on contract basis cannot be replaced by another employee on contract basis. Therefore, respondents are liable to be directed to allow the petitioner to continue in service.

In the present case, petitioner was working with the respondents as Data Entry Operator. A perusal of Annexure P-9, advertisement issued by the respondents, shows that the qualifications for the post of Data Entry Operator are as under :-

"Candidate should be Graduate with one year Certificate Course in Computer Application from a Polytechnic/I.T.I or Institute of repute, with practical knowledge of internet. Preference will be given to candidate having working experience in Public/ Private Sector Undertaking as Data Entry Operator for a minimum of one year or more."

Admittedly, petitioner is not a graduate and, thus, does not have the necessary the qualifications for the post of Data Entry Operator. Although, petitioner continued to work on contract basis with the respondents as Data Entry Operator for number of years but the fact remains that now petitioner does not have the necessary qualifications for the post of Data Entry Operator.

In these circumstances, no ground for interference by this Court is made out. Dismissed."

30. The order dated 01.09.2014 of Hon'ble High Court in LPA No.1440 of 2014 is reproduced as below :-

"Daljit Singh has filed the instant intra court appeal under Clause X of the Letters Patent against the order dated July 31, 2014, passed by the learned Single Judge, whereby

the writ petition (CWP No.15008 of 2014) filed by the appellant challenging the order dated March 13, 2014 (Annexure P-8) has been dismissed.

Learned counsel, on instructions, states that the appellant may be permitted to withdraw this appeal with liberty to file reply to avail alternative remedy in accordance with law.

Dismissed as withdrawn with the aforesaid liberty."

31. From order dated 31.07.2014 of Hon'ble High Court mentioned above, it is made out that the workman is re-agitating the issue already decided by the Hon'ble High Court. The order dated 31.07.2014 of Hon'ble High Court has neither being reversed nor modified nor set aside by any larger bench of Hon'ble High Court or by the Appellate Court. The findings recorded by the Hon'ble High Court in order dated 31.07.2014, referred above are binding on this Court.

32. In view of the reasons recorded above, no findings are required to be recorded on merits and this issue stands decided accordingly.

Issues No. 2 & 3 :

33. Both these issues are taken up together being interconnected and to avoid repetition of discussion.

34. Onus to prove issue No.2 is on the management No.1 and onus to prove issue No.3 is on the management No.2.

35. In view of the discussion made under issue No.1, issues No.2 & 3 have become redundant and stands decided accordingly.

Relief :

36. In the view of foregoing finding on the issues above, this present industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Dated : 06.05.2024.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 28th August, 2024

No. 13/2/139-HII(2)-2024/13449.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **68/2021** dated **07.05.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

BALAK RAM S/O SH. BRIJ RAM SHARMA, H. NO. 260, VILLAGE DHANAS, U.T.
CHANDIGARH. (Workman)

AND

MS/ SUBWAY FOOD PVT. LTD., SCO NO. 14, SECTOR 22-D, CHANDIGARH THROUGH ITS PROPRIETOR. (Management)

AWARD

1. Balak Ram, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed by the management as Captain in the month of June, 2015. The workman remained in the continuous employment up to 08.05.2017 when his services were illegally & wrongfully terminated by refusing of work. At the time of termination, the workman was drawing Rs. 7,500/- per month as wages, which was less than the minimum rate of wages. On 08.05.2017, the workman went to attend his normal duty. The management called him in his office where two more persons were already sitting. They bolted the room from inside and forcibly got the signatures of the workman on blank papers and vouchers. The management also refused work to workman without assigning any reason & notice and without paying him his legal dues. Refusal of work which amounts to termination is retrenchment under Section 2(oo) of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. The workman lodged a complaint dated 09.05.2017 with the Labour Inspector U.T. Chandigarh for refusal of work. The Labour Inspector fixed a number of dates for an amicable settlement but the management did not appear before the Labour Inspector. For his reinstatement the workman served upon the management a demand notice dated 01.02.2018. The management neither replied the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer U.T. Chandigarh was requested for his intervention. The Assistant Labour Commissioner intervened but no settlement could be made possible during the stipulated period. The management also did not appear before the Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. The termination by the management is illegal, wrongful, motivated, against the principle of natural justice and unfair labour practice. The claimant workman is, therefore, entitled to reinstatement. The workman remained unemployed during the period i.e. from the date of termination to till date. Prayer is made that the workman may be reinstated with full back wages, continuity of services, with all attendant benefits and without any change in his service conditions.

3. Notice was issued to the management for dated 13.09.2021 which was received back executed through Shri Raja Ram. Despite service of summons none appeared on behalf of the management. Thus, vide order dated 13.09.2021 the management was proceeded against ex parte.

4. In ex-parte evidence, workman Balak Ram examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 07.05.2024 Learned Representative for workman closed ex-parte evidence.

5. I have heard the arguments of Learned Representative for the workman and perused the judicial file.

6. The workman Balak Ram examined himself as his own witness as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity.

7. From the testimony of AW1 it is duly proved on record that the workman was employed by the management as Captain in the month of June, 2015 and worked continuously up to 07.05.2017. On 08.05.2017 when the workman went to attend his normal duty, the management forcibly got signature of the workman on blank papers and vouchers and refused him work without assigning any reason & notice. The aforesaid version of the workman / AW1 would prove that the workman remained in continuous employment of the management for 240 days in 12 calendar months preceding termination of his services. Thus, the workman fulfils the requirement of Section 25-B of the ID Act. Consequently, provision of Section 25F is attracted. The management before terminating the services of the workman by verbal order on 08.05.2017, did not comply with the conditions laid down under Section 25-F of the ID Act. The management has violated Section 25F of the ID Act. The management did not bother to contest the industrial dispute reference / claim statement and preferred to be proceeded against ex-parte. Therefore, the evidence led by the workman has gone un-rebutted and un-challenged and there is no reason to disbelieve the same.

8. In view of the reasons recorded above, the termination of services of the workman in violation to Section 25F of the ID Act is illegal and is hereby set aside. The workman has specifically pleaded that from the date of termination of services till date he has remained unemployed. Therefore, the workman is entitled to reinstatement with continuity of service and 50% of back wages. Accordingly, the present industrial dispute is ex-parte allowed. The workman is held entitled to reinstatement with continuity of service and 50% back wages. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till its actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Kamal Chhabra, W/o Late Sh. Ram Lal Chhabra, R/o House No. 333, Sector 21-A, Chandigarh, have changed my name from Usha Rani to Kamal Chhabra (after marriage) Kamal Chhabra and Usha Rani is one and the same person. Concerned please note.

[1295-1]

I, Santosh Rani, W/o Nathu Ram, # 1433/28, Sector 29-B, Chandigarh, have changed my name to Santosh.

[1296-1]

I, Radhey Sham, S/o Sh. Gaya Parshad Gupta, R/o House No. 9, Palsora, Chandigarh, have changed my name from Radhey Sham to Radhey Sham Gupta.

[1297-1]

I, Amrish Kumar, S/o S.P. Gupta, R/o # 3323, Sector 32-D, Chandigarh, have changed my name to Amrish.

[1298-1]

I, Dinesh Kumar, S/o Gurdev Dass, R/o Flat No. 2347, Goodwill Enclave, Sector 49-C, Chandigarh, have changed my name to Dinesh Sethi for all purposes.

[1299-1]

I, Naresh Kumar, S/o Madan Lal, # 1322, Sector 15-B, Chandigarh, have changed the name of my minor son from Yash to Yash Thakur.

[1300-1]

I, Meena Gupta, W/o Ajay Gupta, R/o 1403-A, Sector 41-B, Chandigarh, have changed my name Meena Kumari Gupta.

[1301-1]

I, Sonika, D/o Joginder Singh, W/o Pawan Kumar, # 29, Raipur Khurd, Chandigarh, have changed my name to Sonika Rani.

[1302-1]

I, Himanshu Garg, S/o Arvind Kumar, House No. 3056, Sector 28-D, Chandigarh, have changed the name of my minor daughter from Aghanya Garg to Aghanniya H Garg.

[1303-1]

I, Kiran Bala Baloni, W/o Shri Dhirendra Baloni, R/o # 613/1, Sector 41-A, Chandigarh, hereby affirm and declare that Kiran Bala Baloni and Kiran Baloni is one and the same person. My correct name is Kiran Baloni.

[1304-1]

I, Anita Khatri, W/o Sh. Rajesh Khatri, R/o # B-51, Tubewell Sector 12, Chandigarh, my minor daughter name has been changed from Sheetal to Sheetal Khatri.

[1305-1]

I, Pooja Rani, W/o Daljit Singh, R/o H. No. 3224, Pink Rose Society, Sector 49-D, Chandigarh, have changed my name from Pooja Rani to Parminder Kaur.

[1306-1]

I, Ritu Vohra, W/o Rajiv Malhotra, R/o 2376, Sector 38-C, Chandigarh, changed my name to Ritu Malhotra. Ritu Vohra & Ritu Malhotra is one and same person.

[1307-1]

I, Subhash Chand, S/o Late Sh. Manohar Lal, R/o H. No. 5146, sector 38-West, Chandigarh, have changed my minor daughter's name from Ananya to Ananya Chawwla.

[1308-1]

I, Vijay Elangovan *alias* Vijay, S/o Elangovan, # 936, Vikas Nagar, Mouli Jagran, Chandigarh, have changed my name to Vijay E.

[1309-1]

I, Uma Rana, W/o Mahesh Kumar Rana, # 3048-B, Sector 52, Chandigarh, have changed my name to Om Laxmi.

[1310-1]

I, Mahesh Rana, S/o Santokh Singh Rana, # 3048-B, Sector 52, Chandigarh, have changed my name to Mahesh Kumar Rana.

[1311-1]

I, Sanjeev Kumar, S/o Gurbaksh Singh, R/o # 2603/A, Sector 20-C, Chandigarh. I have changed my minor daughter name from Trisha to Trisha Antwal.

[1312-1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."